

**SENATE BILL**

**No. 710**

**Introduced by Senators Torlakson, Ashburn, Cedillo, Ducheny, Kehoe, Lowenthal, Machado, Maldonado, Margett, Murray, Runner, and Soto**

February 22, 2005

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An act to amend Sections 1268.350 and 1268.360 of the Code of Civil Procedure, to amend Section 5103 of the Public Contract Code, to amend Sections 5090.02, 5090.09, and 5090.35 of the Public Resources Code, and to amend Section 285 of the Vehicle Code, relating to ~~vehicles~~ state and local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 710, as amended, Torlakson. ~~Vehicles: dealers: definition~~ State and local government.

~~Existing~~

(1) Existing law defines "apportionment rate" for the purposes of computing interest when awarding compensation in eminent domain and inverse condemnation proceedings.

This bill would revise the definition of "apportionment rate" for these purposes to require the computation to be based on a calendar quarter time period.

(2) Existing law requires the bidder, in a court proceeding to obtain relief from a bid for a public contract, to demonstrate to the satisfaction of the court that, among other things, a mistake was made and that the bidder gave the public entity written notice of the mistake within 5 days after the opening of the bids.

This bill would exclude Saturdays, Sundays, and state holidays from the specified 5-day period.

(3) Existing law, the Off-Highway Motor Vehicle Recreation Act of 2003, until January 1, 2007, provides for the acquisition, operation,

and funding of a system defined as the state vehicular recreation areas, the California Statewide Motorized Trail, designated areas within the state park, and areas supported by a specified off-highway vehicles grant program.

This bill would make technical, conforming changes to certain provisions of the act.

(4) Existing law defines a motor vehicle “dealer” as a person who sells a vehicle subject to registration under the Vehicle Code, a motorcycle or all-terrain vehicle subject to identification under that code, or a trailer subject to identification pursuant to certain provisions of that code.

This bill would make a technical correction in existing law by adding to the specified list of vehicles sold by dealers a snowmobile subject to identification under the Vehicle Code.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1268.350 of the Code of Civil Procedure  
2     is amended to read:

3     1268.350. (a) As used in this section:, “apportionment rate”  
4     means the apportionment rate calculated by the Controller as the  
5     rate of earnings by the Surplus Money Investment Fund for each  
6     calendar quarter.

7     ~~(1) “Apportionment rate” means the apportionment rate~~  
8     ~~calculated by the Controller as the rate of earnings by the Surplus~~  
9     ~~Money Investment Fund for each six-month period.~~

10    ~~(2) “Six-month period” means the period from January 1 to~~  
11    ~~June 30 and the period from July 1 to December 31.~~

12    (b) The rate of interest payable under this article for each  
13    ~~six-month period calendar quarter~~, or fraction thereof, for which  
14    interest is due, shall be the apportionment rate for the  
15    immediately preceding ~~six-month period calendar quarter~~.

16    (c) Each district office of the Department of Transportation  
17    shall quote the apportionment rate to any person upon request.

18    SEC. 2. Section 1268.360 of the Code of Civil Procedure is  
19    amended to read:

20    1268.360. The interest payable for each ~~six-month period~~  
21    calendar quarter shall draw interest, computed as prescribed by

1 Section 1268.350, in each succeeding ~~six-month period~~ *calendar*  
2 *quarter* for which interest is due.

3 *SEC. 3. Section 5103 of the Public Contract Code is amended*  
4 *to read:*

5 5103. The bidder shall establish to the satisfaction of the  
6 court that:

7 (a) A mistake was made.

8 (b) He or she gave the public entity written notice within five  
9 days, *excluding Saturdays, Sundays, and state holidays*, after the  
10 opening of the bids of the mistake, specifying in the notice in  
11 detail how the mistake occurred.

12 (c) The mistake made the bid materially different than he or  
13 she intended it to be.

14 (d) The mistake was made in filling out the bid and not due to  
15 error in judgment or to carelessness in inspecting the site of the  
16 work, or in reading the plans or specifications.

17 *SEC. 4. Section 5090.02 of the Public Resources Code is*  
18 *amended to read:*

19 5090.02. (a) The Legislature finds that off-highway motor  
20 vehicles are enjoying an ever-increasing popularity in California  
21 and that the indiscriminate and uncontrolled use of those vehicles  
22 may have a deleterious impact on the environment, wildlife  
23 habitats, native wildlife, and native flora.

24 (b) The Legislature hereby declares that effectively managed  
25 areas and adequate facilities for the use of off-highway vehicles  
26 and conservation and enforcement are essential for ecologically  
27 balanced recreation.

28 (c) Accordingly, it is the intent of the Legislature that:

29 (1) Existing off-highway motor vehicle recreational areas,  
30 facilities, and opportunities be expanded and be managed in a  
31 manner consistent with this chapter, in particular to maintain  
32 sustained long-term use.

33 (2) New off-highway motor vehicle recreational areas,  
34 facilities, and opportunities be provided and managed pursuant to  
35 this chapter in a manner that will sustain long-term use.

36 (3) When areas or trails or portions thereof cannot be  
37 maintained to appropriate established standards for sustained  
38 long-term use, they shall be closed to use and repaired, to prevent  
39 accelerated erosion. Those areas shall remain closed until they

1 can be managed within the soil-loss *conservation* standard or  
2 shall be closed and restored.

3 (4) Prompt and effective implementation of the Off-Highway  
4 Motor Vehicle Recreation Program by the Division of  
5 Off-Highway Motor Vehicle Recreation shall have an equal  
6 priority among other programs in the department.

7 (5) Off-highway motor vehicle recreation be managed in  
8 accordance with this chapter through financial assistance to local  
9 government and joint undertakings with agencies of the United  
10 States.

11 *SEC. 5. Section 5090.09 of the Public Resources Code is*  
12 *amended to read:*

13 5090.09. "System" means the state vehicular recreation areas,  
14 the California Statewide Motorized-trail ~~Trail~~, ~~designated~~ areas  
15 ~~and trails~~ within the state park-units system, and areas supported  
16 by the grant program.

17 *SEC. 6. Section 5090.35 of the Public Resources Code is*  
18 *amended to read:*

19 5090.35. (a) The protection of public safety, the appropriate  
20 utilization of lands, and the conservation of land resources are of  
21 the highest priority in the management of the state vehicular  
22 recreation areas; and, accordingly, the division shall promptly  
23 repair and continuously maintain areas and trails, anticipate and  
24 prevent accelerated and unnatural erosion, and restore lands  
25 damaged by erosion to the extent possible.

26 (b) (1) The division, in consultation with the United States  
27 Natural Resource Conservation Service, the United States  
28 Geological Survey, the United States Forest Service, the United  
29 States Bureau of Land Management, and the California  
30 Department of Conservation shall update the 1991 Soil  
31 Conservation Guidelines and Standards to establish a generic and  
32 measurable soil conservation standard by March 1, 2006, at least  
33 sufficient to allow restoration of off-highway motor vehicle areas  
34 and trails. The 1991 Soil Conservation Guidelines and Standards  
35 shall remain in effect until they are updated pursuant to this  
36 subdivision.

37 ~~(c) The division shall monitor the condition of soils and~~  
38 ~~wildlife habitat in each state vehicular recreation area each year~~  
39 ~~in order to determine whether the soil conservation standards and~~  
40 ~~habitat protection programs are being met.~~

~~(d)~~

(2) Upon a determination that the soil conservation standards and habitat protection plans are not being met in any portion of any state vehicular recreation area the division shall temporarily close the noncompliant portion to repair and prevent accelerated erosion, until the soil conservation standards are met.

~~(e)~~

(3) Upon a determination that the soil conservation standards cannot be met in any portion of any state vehicular recreation area the division shall close and restore the noncompliant portion pursuant to Section 5090.11.

~~(f) The division shall not fund trail construction unless the trail is capable of complying with the conservation specifications prescribed in subdivisions (b) and (g). The division shall not fund trail construction where conservation is not feasible.~~

~~(g)~~

(c) (1) The division shall make an inventory of wildlife populations and their habitats in each state vehicular recreation area and shall prepare a wildlife habitat protection program to sustain a viable species composition specific to each state vehicular recreation area by July 1, 1989.

~~(h)~~

(2) If the division determines that the habitat protection program is not being met in any portion of any state vehicular recreation area, the division shall close the noncompliant portion temporarily until the habitat protection program is met.

~~(i)~~

(3) If the division determines that the habitat protection program cannot be met in any portion of any state vehicular recreation area, the division shall close and restore that noncompliant portion pursuant to Section 5090.11.

~~(j)~~

*(d) The division shall monitor the condition of soils and wildlife habitat in each state vehicular recreation area each year in order to determine whether the soil conservation standards and habitat protection programs are being met.*

*(e) The division shall not fund trail construction unless the trail is capable of complying with the conservation specifications prescribed in subdivisions (b) and (c). The division shall not fund trail construction where conservation is not feasible.*

1 (f) The division shall monitor and protect cultural and  
2 archaeological resources within the state vehicular recreation  
3 areas.

4 ~~SECTION 1.~~

5 *SEC. 7.* Section 285 of the Vehicle Code, as amended by  
6 Section 1 of Chapter 836 of the Statutes of 2004, is amended to  
7 read:

8 285. "Dealer" is a person not otherwise expressly excluded  
9 by Section 286 who:

10 (a) For commission, money, or other thing of value, sells,  
11 exchanges, buys, or offers for sale, negotiates or attempts to  
12 negotiate, a sale or exchange of an interest in, a vehicle subject to  
13 registration, a motorcycle, snowmobile, or all-terrain vehicle  
14 subject to identification under this code, or a trailer subject to  
15 identification pursuant to Section 5014.1, or induces or attempts  
16 to induce any person to buy or exchange an interest in a vehicle  
17 and, who receives or expects to receive a commission, money,  
18 brokerage fees, profit, or any other thing of value, from either the  
19 seller or purchaser of the vehicle.

20 (b) Is engaged wholly or in part in the business of selling  
21 vehicles or buying or taking in trade, vehicles for the purpose of  
22 resale, selling, or offering for sale, or consigned to be sold, or  
23 otherwise dealing in vehicles, whether or not the vehicles are  
24 owned by the person.